

Introduced by Senator Speier

February 19, 2003

An act to amend Sections 1871.4, 11760, and 11880 of, and to add Section 11661.8 to, the Insurance Code, relating to workers' compensation insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as introduced, Speier. Workers' compensation insurance: fraud: limits.

Existing law provides that it is unlawful to knowingly make specified false or fraudulent statements in connection with obtaining compensation under or reducing the premium or cost of a workers' compensation insurance policy. Existing law specifies a maximum fine of \$50,000 for a violation of these provisions.

This bill would raise the maximum fine for a violation of these provisions to \$100,000.

Existing law generally regulates the terms of workers' compensation insurance policies.

This bill would preclude an insurer from insuring an employer against liability for more than 15 one-hour visits to a chiropractor by an employee in connection with any claim made under the policy, unless the employee has obtained the approval of a doctor for additional visits.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1871.4 of the Insurance Code is
2 amended to read:

1 1871.4. (a) It is unlawful to do any of the following:

2 (1) Make or cause to be made any knowingly false or fraudulent
3 material statement or material representation for the purpose of
4 obtaining or denying any compensation, as defined in Section
5 3207 of the Labor Code.

6 (2) Present or cause to be presented any knowingly false or
7 fraudulent written or oral material statement in support of, or in
8 opposition to, any claim for compensation for the purpose of
9 obtaining or denying any compensation, as defined in Section
10 3207 of the Labor Code.

11 (3) Knowingly assist, abet, conspire with, or solicit any person
12 in an unlawful act under this section.

13 (4) Make or cause to be made any knowingly false or fraudulent
14 statements with regard to entitlement to benefits with the intent to
15 discourage an injured worker from claiming benefits or pursuing
16 a claim.

17 For the purposes of this subdivision, “statement” includes, but
18 is not limited to, any notice, proof of injury, bill for services,
19 payment for services, hospital or doctor records, X-ray, test
20 results, medical-legal expense as defined in Section 4620 of the
21 Labor Code, other evidence of loss, injury, or expense, or payment.

22 (5) Make or cause to be made any knowingly false or fraudulent
23 material statement or material representation for the purpose of
24 obtaining or denying any of the benefits or reimbursement
25 provided in the Return-to-Work Program established under
26 Section 139.48 of the Labor Code.

27 (6) Make or cause to be made any knowingly false or fraudulent
28 material statement or material representation for the purpose of
29 discouraging an employer from claiming any of the benefits or
30 reimbursement provided in the Return-to-Work Program
31 established under Section 139.48 of the Labor Code.

32 (b) Every person who violates subdivision (a) shall be punished
33 by imprisonment in county jail for one year, or in the state prison,
34 for two, three, or five years, or by a fine not exceeding ~~fifty~~
35 ~~thousand dollars (\$50,000)~~ *one hundred thousand dollars*
36 *(\$100,000)* or double the value of the fraud, whichever is greater,
37 or by both imprisonment and fine. Restitution shall be ordered,
38 including restitution for any medical evaluation or treatment
39 services obtained or provided. The court shall determine the

1 amount of restitution and the person or persons to whom the
2 restitution shall be paid.

3 (c) Any person who violates subdivision (a) and who has a prior
4 felony conviction of that subdivision, of former Section 556, of
5 former Section 1871.1, or of Section 548 or 550 of the Penal Code,
6 shall receive a two-year enhancement for each prior conviction in
7 addition to the sentence provided in subdivision (b).

8 The existence of any fact that would subject a person to a penalty
9 enhancement shall be alleged in the information or indictment and
10 either admitted by the defendant in open court, or found to be true
11 by the jury trying the issue of guilt or by the court where guilt is
12 established by plea of guilty or nolo contendere or by trial by the
13 court sitting without a jury.

14 (d) This section shall not be construed to preclude the
15 applicability of any other provision of criminal law that applies or
16 may apply to any transaction.

17 SEC. 2. Section 11661.8 is added to the Insurance Code, to
18 read:

19 11661.8. An insurer shall not insure an employer against the
20 liability of the employer for more than 15 one-hour visits to a
21 chiropractor by an employee in connection with any claim made
22 under the policy, unless the employee has obtained the approval of
23 a doctor for additional visits.

24 SEC. 3. Section 11760 of the Insurance Code is amended to
25 read:

26 11760. (a) It is unlawful to make or cause to be made any
27 knowingly false or fraudulent statement, whether made orally or
28 in writing, of any fact material to the determination of the
29 premium, rate, or cost of any policy of workers' compensation
30 insurance, for the purpose of reducing the premium, rate, or cost
31 of the insurance. Any person convicted of violating this
32 subdivision shall be punished by imprisonment in the county jail
33 for one year, or in the state prison for two, three, or five years, or
34 by a fine not exceeding ~~fifty thousand dollars (\$50,000)~~ *one*
35 *hundred thousand dollars (\$100,000)*, or double the value of the
36 fraud, whichever is greater, or by both imprisonment and fine.

37 (b) Any person who violates subdivision (a) and who has a
38 prior felony conviction of the offense set forth in that subdivision
39 shall receive a two-year enhancement for each prior conviction in
40 addition to the sentence provided in subdivision (a). The existence

1 of any fact that would subject a person to a penalty enhancement
2 shall be alleged in the information or indictment and either
3 admitted by the defendant in open court, or found to be true by the
4 jury trying the issue of guilt or by the court where guilt is
5 established by plea of guilty or nolo contendere or by trial by the
6 court sitting without a jury.

7 SEC. 4. Section 11880 of the Insurance Code is amended to
8 read:

9 11880. (a) It is unlawful to make or cause to be made any
10 knowingly false or fraudulent statement, whether made orally or
11 in writing, of any fact material to the determination of the
12 premium, rate, or cost of any policy of workers' compensation
13 insurance issued or administered by the State Compensation
14 Insurance Fund for the purpose of reducing the premium, rate, or
15 cost of the insurance. Any person convicted of violating this
16 subdivision shall be punished by imprisonment in the county jail
17 for one year, or in the state prison for two, three, or five years, or
18 by a fine not exceeding ~~fifty thousand dollars (\$50,000)~~ *one*
19 *hundred thousand dollars (\$100,000)*, or double the value of the
20 fraud, whichever is greater, or by both imprisonment and fine.

21 (b) Any person who violates subdivision (a) and who has a
22 prior felony conviction of the offense set forth in that subdivision
23 shall receive a two-year enhancement for each prior conviction in
24 addition to the sentence provided in subdivision (a). The existence
25 of any fact that would subject a person to a penalty enhancement
26 shall be alleged in the information or indictment and either
27 admitted by the defendant in open court, or found to be true by the
28 jury trying the issue of guilt or by the court where guilt is
29 established by plea of guilty or nolo contendere or by trial by the
30 court sitting without a jury.

